

CHAPTER NO. 239

SENATE BILL NO. 310

By Ford, Crutchfield, Fowler

Substituted for: House Bill No. 592

By Armstrong, Eckles, Pruitt, Ulysses Jones, Lois DeBerry, Brenda Turner, Whitson,
John DeBerry, Ralph Cole, Brown, Odom, Larry Turner, McAfee, Brooks

AN ACT To amend Tennessee Code Annotated, Title 63, relative to clinical perfusionists.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Clinical Perfusionist Licensure Act".

SECTION 2. As used in this act unless the context otherwise requires:

(1) "Board" means the board of medical examiners, created by Title 63, Chapter 6;

(2) "Committee" means the committee for clinical perfusion;

(3) "Division" means the division of health-related boards;

(4) "Extracorporeal circulation" means the diversion of a patient's blood through a heart-lung machine or a similar device that assumes the functions of the patient's heart, lungs, kidney, liver or other organs;

(5) "Licensed clinical perfusionist" means a person licensed pursuant to this act; and

(6) "Perfusion" means the functions necessary for the support, treatment, measurement or supplementation of the cardiovascular, circulatory, respiratory systems or other organs, or a combination of such activities, and to ensure the safe management of physiologic functions by monitoring and analyzing the parameters of the systems under an order and under the supervision of a licensed physician, including:

(A) The use of extracorporeal circulation, long-term cardiopulmonary support techniques including extracorporeal carbon dioxide removal and extracorporeal membrane oxygenation and associated therapeutic and diagnostic technologies;

(B) Counterpulsation, ventricular assistance, autotransfusion, blood conservation techniques, myocardial and organ preservation, extracorporeal life support and isolated limb perfusion;

(C) The use of techniques involving blood management, advanced life support and other related functions; and

(D) In the performance of the acts described in this subdivision, the administration of:

(i) Pharmacological and therapeutic agents; or

(ii) Blood products or anesthetic agents through the extracorporeal circuit or through an intravenous line as ordered by a physician;

(E) The performance and use of:

(i) Anticoagulation monitoring and analysis;

(ii) Physiologic monitoring and analysis;

(iii) Blood gas and chemistry monitoring and analysis;

(iv) Hematological monitoring and analysis;

(v) Hypothermia and hyperthermia;

(vi) Hemoconcentration and hemodilution; and

(vii) Hemodialysis;

(F) The observation of signs and symptoms related to perfusion services, the determination of whether the signs and symptoms exhibit abnormal characteristics and the implementation of appropriate reporting, clinical perfusion protocols or changes in, or the initiation of, emergency procedures;

(G) "Perfusion protocols" means perfusion-related policies and protocols developed or approved by a licensed health care facility or a physician through collaboration with administrators, licensed clinical perfusionists and other health care professionals; and

(H) "Provisional licensed clinical perfusionist" means a person provisionally licensed pursuant to this act.

SECTION 3. A person is eligible to make application to the committee and receive a license if such person is actively engaged in the practice of perfusion consistent with the provisions of this act and if such person, upon the effective date of this act, has at least four (4) years experience, within the immediately preceding six (6) years, operating cardiopulmonary bypass systems during cardiac surgical cases in a licensed health care facility as the person's primary function.

SECTION 4. The committee shall license by examination, or otherwise as provided in this act, all licensed clinical perfusionists in this state who meet the requirements of this act.

SECTION 5. (a) A candidate for a license to practice as a licensed clinical perfusionist shall submit an application accompanied by the required fees. The committee shall prescribe the form of the application and the dates by which applications and fees must be received.

(b) To qualify for the licensing examination, the applicant shall have successfully completed a perfusion education program approved by the committee. In approving perfusion education programs necessary for qualification for licensing examination, the committee shall approve only a program that has education standards established by the Accreditation

Committee for Perfusion Education and approved by the Commission on Accreditation of Allied Health Education Programs or its successor.

SECTION 6. (a) Except as otherwise provided in this act, to qualify for a license an applicant shall pass a competency examination. The examination shall be prepared or approved by the committee and administered to qualified applicants at least once each calendar year. The examination prescribed by the committee may be or may include the complete examinations given by the American Board of Cardiovascular Perfusion (ABCP) or its successor organization.

(b) Not later than forty-five (45) days after the date on which a licensing examination is administered, the division shall notify each examinee of the results of the examination.

(c) The committee shall establish:

(1) A limit on the number of times an applicant who fails an examination may retake the examination; and

(2) The requirements for re-examination and the amount of any re-examination fee.

SECTION 7. (a) A license to practice perfusion is valid for two (2) years. The committee may provide that licenses expire on various dates. A person may renew an unexpired license by submitting proof of compliance with the continuing professional education requirements prescribed by the committee and paying the required renewal fee to the committee before the expiration date of the license.

(b) If a person's license has been expired for not more than two (2) years, the person may renew the license by submitting proof, satisfactory to the committee, of compliance with the continuing professional education requirements prescribed by the committee and any penalty fee prescribed by the committee.

(c) If a person's license has been expired two (2) years or more, the person may not renew the license. The person may obtain a new license by submitting to re-examination and complying with the current requirements and procedures for obtaining a license.

(d) The committee may renew without re-examination an expired license of a person who was licensed in this state, moved to another state or states, and is currently licensed or certified and has been in practice in another state or states for two (2) years immediately preceding the person's application to renew a license. The person shall pay the required fee as established by the committee. The committee shall not renew an expired license pursuant to this subsection if such expired license is subject to a penalty or restriction in another state.

(e) The committee shall notify each license holder in writing of the license expiration date before the thirtieth day before such date by notice to the license holder at the license holder's last known address according to the records of the committee.

SECTION 8. (a) A license as a provisional licensed clinical perfusionist may be issued by the committee to a person who has successfully completed an approved perfusion education program, has made application to sit for the

licensure examination, and upon the filing of an application, payment of the application fee and the submission of evidence satisfactory to the committee of the successful completion of the education requirements as provided in this act.

(b) A provisional licensed clinical perfusionist shall be under the supervision and direction of a licensed clinical perfusionist at all times during which the provisional licensed clinical perfusionist performs perfusion. The committee may promulgate rules governing such supervision and direction. Such rules shall not require the immediate physical presence of the supervising licensed clinical perfusionist.

(c) A provisional license shall be valid for one (1) year from the date it is issued and may be renewed by the same procedures established for the renewal of licenses pursuant to this act, if the application for renewal is signed by a supervising licensed clinical perfusionist.

(d) If the person fails any portion of the licensure examination, such person shall surrender the person's provisional license to the committee.

SECTION 9. On receipt of an application and application fee, the committee may waive the examination and educational requirements for an applicant who at the time of application:

(1) Is appropriately licensed or certified by another state, territory or possession whose requirements for the license or certificate are substantially equivalent to the requirements of this act, and such applicant is not under any restriction or encumbrance imposed by such state; or

(2) Holds a current certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion, or its successor.

SECTION 10. (a) A person may not engage or offer to engage in perfusion for compensation or use the title or represent or imply that the person has the title of "licensed clinical perfusionist" or "provisional licensed clinical perfusionist" or use the letters "LCP" or "PLCP" and may not use any facsimile of such titles in any manner to indicate or imply that the person is a licensed perfusionist or provisional licensed perfusionist unless the person holds an appropriate license issued pursuant to this act.

(b) A person may not use the title or represent or imply that such person has the title of "certified clinical perfusionist" or use the letters "CCP" and may not use any facsimile of such title in any manner to indicate or imply that such person is a certified clinical perfusionist by the American Board of Cardiovascular Perfusion unless the person holds a certificate as a certified clinical perfusionist issued by the American Board of Cardiovascular Perfusion.

(c) Any person who violates the provisions of subsection (a) or (b) of this section is guilty of a Class B misdemeanor.

SECTION 11. The provisions of this act shall not apply to:

(1) A person licensed as a health care professional in this state if:

(A) The person does not represent to the public, directly or indirectly, that the person is licensed pursuant to this act, and does not

use any name, title or designation indicating that the person is licensed pursuant to this act; and

(B) The person limits the person's acts or practice to the scope of practice authorized by the appropriate licensing agency; or

(2) A student enrolled in an accredited perfusion education program if the perfusion services performed are:

(A) An integral part of the student's course of study; and

(B) Performed under the direct supervision of a licensed clinical perfusionist assigned to supervise the student and who is on duty and immediately available in the assigned patient care area; or

(3) The practice of any legally qualified perfusionist employed by the United States Government while in the discharge of the person's official duties.

SECTION 12. (a) To assist the board of medical examiners in the performance of its duties, there is hereby established the committee for clinical perfusionists. The committee shall approve the examination required by this act. The chair of the committee shall be a perfusionist.

(b) The committee shall consist of four (4) perfusionist members, one (1) hospital administrator from a licensed health care facility in Tennessee in which cardiac surgery is performed; one (1) licensed physician who shall be either a cardiac surgeon or a cardiac anesthesiologist, and one (1) public member. The public member shall be a resident of Tennessee for one (1) year and shall be a registered voter. The public member shall be a person who is not and never was a member of any medical profession or the spouse of a medical professional. The public member shall not be a member of, or a consultant to, any trade association in the field of health care. The public member shall not have or have had a material, financial interest in either the provision of professional services specified by this act, or any activity or organization directly related to any licensed profession specified in this act. Members shall be appointed by the governor upon recommendation by the committee for clinical perfusionists. The members of the committee shall be appointed for terms of six (6) years; except those first appointed, of whom one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, two (2) shall be appointed for a term of three (3) years, one (1) shall be appointed for a term of four (4) years, one (1) shall be appointed for a term of five (5) years and one (1) shall be appointed for a term of six (6) years. The perfusionist committee members shall be residents of the State of Tennessee for at least one (1) year, shall be United States citizens and shall meet all the requirements for licensing provided in this act. In making appointments to the committee the governor shall ensure that the committee is representative of the environments in which perfusionists practice. In making appointments to the committee, the governor shall strive to ensure that at least one (1) person serving on the committee is sixty (60) years of age or older and that at least one (1) person serving on the committee is a member of a racial minority. Of the total membership of the committee, no less than two (2) members shall be from each grand division of the state. In making the initial appointments to the committee, the perfusionist members shall not be required to be licensed but shall apply for a license from the committee within ninety (90) days of the issuance of licenses by the committee.

(c) If a member of the committee shall, during the member's term as a committee member, remove the member's domicile from the State of Tennessee, then the committee shall immediately notify the governor and the seat of that committee member shall be declared vacant. All such vacancies shall be filled by appointment as in the same manner as the preceding appointment.

(d) No member of the committee shall be entitled to any compensation for the performance of the member's official duties but shall receive compensation for travel expenses pursuant to the comprehensive travel regulations promulgated by the Department of Finance and Administration and approved by the Attorney General and Reporter.

(e) A member of the committee may be removed by the governor, if the member:

(1) Does not have, at the time of appointment, the qualifications required for appointment to the committee;

(2) Does not maintain during service on the committee the qualifications required for appointment to the committee;

(3) Violates any provision of this act;

(4) Cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) Is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during a calendar year, unless the absence is excused by a majority vote of the committee.

SECTION 13. Not later than thirty (30) days after the governor appoints the initial members of the committee and annually thereafter, the committee shall meet and elect one (1) of its members as chair and one (1) of its members as vice chair. The committee shall meet at least quarterly or at any other time if called by the chairperson or a majority of the committee. A majority of the members of the committee shall constitute a quorum.

SECTION 14. The committee shall:

(a)(1) Adopt and publish a code of ethics;

(2) Establish the qualifications and fitness of applicants of licenses, renewal of licenses and reciprocal licenses;

(3) Establish the grounds for revocation, suspension, or denial of a license;

(4) Establish the grounds for the placing on probation of a holder of a license;

(5) Establish the categories of fees and the amount of fees that may be imposed in connection with a license;

(6) Establish continuing professional education requirements for licensed clinical perfusionists and provisional licensed clinical perfusionists, the standards of which shall be at least as stringent as those of the American Board of Cardiovascular Perfusion or its successor agency of the license holder's professional duties; and

(7) Assist in such matters dealing with perfusion as the board may, in its discretion, direct.

(b) Any actions taken under this section shall only be effective after adoption by a majority vote of the members of the committee. The board of medical examiners, by a majority vote of its members at the next board meeting at which administrative matters are considered, may rescind or supersede any action taken by the committee.

SECTION 15. (a) The committee shall keep an information file about each complaint filed with the committee. The committee's information file shall be kept current and contain a record for each complaint of:

(1) All persons contacted in relation to the complaint;

(2) A summary of findings made at each step of the complaint process;

(3) An explanation of the legal basis and reason for a complaint that is dismissed; and

(4) Other relevant information.

(b) If a written complaint is filed with the committee that the committee has authority to resolve, the committee at least as frequently as quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an ongoing investigation.

(c) The committee shall develop a form to standardize information concerning complaints made to the committee. The committee shall prescribe information to be provided to a person when the person files a complaint with the committee.

(d) The committee shall provide reasonable assistance to a person who wishes to file a complaint with the committee.

SECTION 16. (a) The committee shall promulgate rules pursuant to Title 4, Chapter 5, concerning the investigation of a complaint filed with the committee. The rules adopted pursuant to this section shall:

(1) Distinguish between categories of complaints;

(2) Ensure that complaints are not dismissed without appropriate consideration;

(3) Require that the board be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the dismissed complaint;

(4) Ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(5) Prescribe guidelines concerning the categories of complaints that require the use of a private investigator and the procedures for the committee to obtain the services of a private investigator.

(b) The committee shall dispose of all complaints in a timely manner.

SECTION 17. The committee shall revoke or suspend a license, place on probation a person whose license has been suspended, or reprimand a license holder if there is proof of:

(1) Any violation of the provisions of this act;

(2) Any violation of a rule or code of ethics adopted by the committee; or

(3) Unprofessional conduct, which includes, but is not limited to:

(A) Incompetence or gross negligence in carrying out usual perfusion functions;

(B) A conviction of practicing perfusion without a license or a provisional license;

(C) The use of advertising relating to perfusion in a way that violates state law;

(D) Procuring a license or provisional license by fraud, misrepresentation or mistake;

(E) Making or giving any false statement or information in connection with the application for a license or provisional license;

(F) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of a perfusionist, in which event the record of the conviction shall be conclusive evidence of such offense; or

(G) Impersonating an applicant or acting as proxy for an applicant in any examination required pursuant to this act for the issuance of a license.

SECTION 18. The committee may promulgate administrative rules pursuant to Title 4, Chapter 5, to administer the provisions of this act.

SECTION 19. Tennessee Code Annotated, Title 63, is amended by adding Sections 1 through 18 of this act as a new chapter thereto.

SECTION 20. Tennessee Code Annotated, Section 4-29-222(a), is amended by adding a new item thereto, as follows:

() Committee for clinical perfusionists, created by Section 12 of this act;

SECTION 21. For the purpose of appointing members to the committee and of promulgating rules and regulations, this act shall take effect upon becoming a law, the

public welfare requiring it. For all other purposes this act shall take effect January 1, 2000, the public welfare requiring it.

PASSED: May 20, 1999


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 27th day of May 1999


DON CONQUIST, GOVERNOR